



Rep. Barbara Flynn Currie

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1 AMENDMENT TO SENATE BILL 3660

2 AMENDMENT NO. _____. Amend Senate Bill 3660, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "ARTICLE 1. EMERGENCY BUDGET ACT OF FISCAL YEAR 2011

6 Section 1-1. Short title. This Act may be cited as the
7 Emergency Budget Act of Fiscal Year 2011. References in this
8 Article to "this Act" mean this Article.

9 Section 1-5. Legislative intent and purpose. The General
10 Assembly hereby finds and declares that the State is confronted
11 with an unprecedented fiscal crisis. It is the purpose of this
12 Act to authorize changes in State programs that are necessary
13 to implement the State fiscal year 2011 budget. This Act is to
14 be liberally construed and interpreted in a manner that allows
15 the State to address the fiscal crisis for the State fiscal

1 year 2011.

2 Section 1-10. Designation of contingency reserve. The
3 Governor may designate amounts to be set aside as a contingency
4 reserve from the amounts appropriated from the General Revenue
5 Fund, the Common School Fund, the Education Assistance Fund,
6 and any special fund of the State for State fiscal year 2011
7 for all boards, commissions, agencies, institutions,
8 authorities, colleges, universities, and bodies politic and
9 corporate of the State, but not other constitutional officers
10 or the legislative or judicial branch.

11 Section 1-15. Contingency reserve restrictions. The
12 amounts placed in contingency reserve shall not be transferred,
13 obligated, encumbered, expended, or otherwise committed during
14 State fiscal year 2011 unless the State, by an Act of the 96th
15 General Assembly, generates incremental revenues sufficient to
16 support such transfers, obligations, encumbrances,
17 expenditures, or other commitments.

18 Section 1-20. All State programs subject to appropriation.
19 Notwithstanding any other Act to the contrary, any expenditure
20 from State funds authorized or required by any State law are
21 made subject to appropriation during State fiscal year 2011. No
22 moneys shall be obligated or expended unless they are supported
23 by available State fiscal year 2011 appropriations that are not

1 otherwise obligated or reserved pursuant to Section 1-10 of
2 this Act. The provisions of this Section do not apply to
3 non-appropriated funds, non-appropriated accounts, locally
4 held funds, or appropriations with continuing authority.

5 Section 1-35. Act takes precedence. In case of any conflict
6 between the provisions of this Act and any other law, executive
7 order, or administrative regulation, the provisions of this Act
8 prevail and control.

9 Section 1-90. Repealer. This Act is repealed on July 1,
10 2011.

11 ARTICLE 3. RAILSPLITTER TOBACCO SETTLEMENT AUTHORITY ACT

12 Section 3-1. Short title. This Act may be cited as the
13 Railsplitter Tobacco Settlement Authority Act. References in
14 the Article to "this Act" mean this Article.

15 Section 3-2. Definitions. In this Act words or terms shall
16 have the following meanings unless the context or usage clearly
17 indicates that another meaning is intended.

18 (a) "Authority" means the Railsplitter Tobacco Settlement
19 Authority created and established pursuant to Section 3-4 of
20 this Act.

21 (b) "Authorized officer" means any of the members of the

1 Authority identified and described in Section 3-4 of this Act.

2 (c) "Bond" means any instrument evidencing the obligation
3 to pay money authorized or issued by or on behalf of the
4 Authority pursuant to the authorization granted by this Act,
5 including without limitation, bonds, notes, or certificates.

6 (d) "Bondholder" means, in the case of a bond issued in
7 registered form, the registered owner of the bond and
8 otherwise, the owner of the bond.

9 (e) "Budget Director" means the Director of the Governor's
10 Office of Management and Budget.

11 (f) "Consent Decree" means the Consent Decree and Final
12 Judgment of the Circuit Court of Cook County, Illinois, dated
13 December 8, 1998, as the same has been and may be corrected,
14 amended or modified, in the action entitled People of the State
15 of Illinois v. Philip Morris Incorporated, et al. (No. 96 L
16 13146).

17 (g) "Master Settlement Agreement" means the Master
18 Settlement Agreement, dated November 23, 1998, among the
19 attorneys general of 46 states, including the State of
20 Illinois, the District of Columbia, the Commonwealth of Puerto
21 Rico, Guam, the United States Virgin Islands, American Samoa
22 and the Territory of the Northern Mariana Islands, on the one
23 hand, and certain tobacco manufacturers, on the other hand, and
24 the subject of the Consent Decree.

25 (h) "Master Settlement Escrow Agent" means the escrow agent
26 under the Master Settlement Agreement.

1 (i) "Net proceeds of bonds" means the gross proceeds of the
2 sale of bonds issued under Section 3-6 of this Act, less any
3 amounts applied or to be applied to pay transaction and
4 administrative expenses, including underwriting discount, and
5 to fund any reserves deemed necessary or appropriate by the
6 Authority, but does not include any investment earnings
7 realized thereon.

8 (j) "Participating manufacturer" means a tobacco product
9 manufacturer that is or becomes a signatory to the Master
10 Settlement Agreement.

11 (k) "Pledged tobacco revenues" means the State's tobacco
12 settlement revenues sold to the Authority pursuant to the sale
13 agreement and pledged by the Authority for the payment of bonds
14 and any related bond facility.

15 (l) "Qualifying statute" has the meaning given that term in
16 the Master Settlement Agreement, constituting the Tobacco
17 Product Manufacturers' Escrow Act.

18 (m) "Related bond facility" means any interest rate
19 exchange or similar agreement or any bond insurance policy,
20 letter of credit or other credit enhancement facility,
21 liquidity facility, guaranteed investment or reinvestment
22 agreement, or other similar agreement, arrangement or
23 contract.

24 (n) "Residual interest in tobacco settlement revenues"
25 means any tobacco settlement revenues determined as moneys are
26 received, to be not required for the identified period in which

1 revenues are received, to pay principal or interest on bonds or
2 administrative or transaction expenses of the Authority or to
3 fund reserves or other requirements relating to bonds issued or
4 related bond facilities made under this Act.

5 (o) "Sale agreement" means any agreement authorized
6 pursuant to this Act in which the State provides for the sale
7 of all or a portion of the tobacco settlement revenues to the
8 Authority.

9 (p) "State" means the State of Illinois.

10 (q) "State Finance Act" means the State Finance Act of the
11 State, as amended (30 ILCS 105/1 et seq.).

12 (r) "Tobacco settlement bond proceeds account" means the
13 Account by that name within the Tobacco Settlement Recovery
14 Fund established under Section 6z-43(a) of the State Finance
15 Act.

16 (s) "Tobacco Settlement Residual Account" means the
17 Account by that name within the Tobacco Settlement Recovery
18 Fund established under Section 6z-43(a) of the State Finance
19 Act.

20 (t) "Tobacco settlement revenues" means all tobacco
21 settlement payments received by the State on and after the
22 effective date of this Act and required to be made, pursuant to
23 the terms of the Master Settlement Agreement, by participating
24 manufacturers and the State's rights to receive the tobacco
25 settlement payments on and after the effective date of this
26 Act, exclusive of any payments made with respect to liability

1 to make those payments for calendar years completed before the
2 effective date of this Act.

3 Section 3-3. Transfer and sale of State's right to tobacco
4 settlement revenues. During fiscal years 2010 and 2011, the
5 State may sell, convey, or otherwise transfer to the Authority
6 the tobacco settlement revenues in exchange for the net
7 proceeds of bonds and a right to the residual interest in
8 tobacco settlement revenues. Unless otherwise directed by
9 statute, the net proceeds of bonds shall be deposited in the
10 Tobacco Settlement Bond Proceeds Account, and the residual
11 interest in tobacco settlement revenues received by the State
12 from time to time shall be deposited in the Tobacco Settlement
13 Residual Account, in each case to be applied for the purposes
14 and in the manner described in this Act and in Section 6z-43 of
15 the State Finance Act.

16 Any sale, conveyance, or other transfer authorized by this
17 Section shall be evidenced by an instrument or agreement in
18 writing signed on behalf of the State by the Governor. A
19 certified copy of the instrument or agreement shall be filed
20 with the Governor, Comptroller, Treasurer, Budget Director,
21 Speaker and Minority Leader of the House of Representatives,
22 President and Minority Leader of the Senate, and the Commission
23 on Government Forecasting and Accountability promptly upon
24 execution and delivery thereof. The instrument or agreement may
25 include an irrevocable direction to the Master Settlement

1 Escrow Agent to pay all or a specified portion of the tobacco
2 settlement revenues directly to or upon the order of the
3 Authority, or to any escrow agent or any trustee under an
4 indenture or other agreement securing any bonds issued or
5 related bond facilities made under this Act. Upon execution and
6 delivery of the sale agreement as provided in this Act, the
7 sale, conveyance, or other transfer of the right to receive the
8 Tobacco Settlement Revenues, shall, for all purposes, be a true
9 sale and absolute conveyance of all right, title, and interest
10 therein and not as a pledge or other security interest for any
11 borrowing, valid, binding, and enforceable in accordance with
12 the terms thereof and such instrument or agreements and any
13 related instrument, agreement, or other arrangement, including
14 any pledge, grant of security interest, or other encumbrance
15 made by Authority to secure any Bonds issued by the Authority,
16 and shall not be subject to disavowal, disaffirmance,
17 cancellation, or avoidance by reason of insolvency of any
18 party, lack of consideration, or any other fact, occurrence, or
19 rule of law. On and after the effective date of the sale of any
20 portion (including all) of the tobacco settlement revenues, the
21 State shall have no right, title or interest in or to the
22 portion of the tobacco settlement revenues sold, and the
23 portion of the tobacco settlement revenues so sold shall be the
24 property of the Authority, and shall be received, held and
25 disbursed by the Authority in a trust fund outside the State
26 treasury. Any portions of the tobacco settlement revenues sold

1 and held in trust shall be invested in accordance with the
2 Public Funds Investment Act.

3 The State may not transfer any right to those amounts
4 received by the State which were deposited into the Disputed
5 Payments Account or withheld in accordance with Section
6 XI(f)(2) of the Master Settlement Agreement prior to the
7 closing of any Bonds issued pursuant to this Act.

8 The procedures and requirements set forth in this Section
9 shall be the sole procedures and requirements applicable to the
10 sale of the tobacco settlement revenues.

11 Section 3-4. Establishment and Powers of Authority. The
12 Authority is hereby established as a special purpose
13 corporation which shall be body corporate and politic of, but
14 having a legal existence independent and separate from, the
15 State and, accordingly, the assets, liabilities, and funds of
16 the Authority shall be neither consolidated nor commingled with
17 those of the State treasury. The Authority and its corporate
18 existence shall continue until 6 months after all its
19 liabilities have been met or otherwise discharged. Upon the
20 termination of the existence of the Authority, all of its
21 rights and property shall pass to and be vested in the State.
22 The Authority shall be established for the express limited
23 public purposes set forth in this Act, and no part of the net
24 earnings of the Authority shall inure to any private
25 individual.

1 The Authority shall be governed by a 3-member board
2 consisting of the Budget Director and two other members
3 appointed by the Governor. The powers of the Authority shall be
4 subject to the terms, conditions, and limitations contained
5 within this Act, and any applicable covenants or agreements of
6 the Authority in any indenture or other agreement relating to
7 any then outstanding bonds or related bond facilities. The
8 Authority may enter into contracts regarding any matter
9 connected with any corporate purpose within the objects and
10 purposes of this Act. The members of the Authority and the
11 Chief Financial Officer of the Authority shall receive no
12 salary or other compensation, either direct or indirect, for
13 serving as members of the Authority, other than reimbursement
14 for actual and necessary expenses incurred in the performance
15 of such person's duties. The Authority may elect one of its
16 members as chairman, who shall sign instruments or agreements
17 authorized by this Act on behalf of the Authority. The
18 Authority may also appoint a Chief Financial Officer of the
19 Authority who may or may not be a member of the Authority in
20 order to provide financial analysis and advice regarding any
21 transaction of the Authority. Notwithstanding the foregoing,
22 the Authority shall not be authorized to make any covenant,
23 pledge, promise or agreement purporting to bind the State with
24 respect to Tobacco Settlement Revenues, except as otherwise
25 specifically authorized by this Act.

26 The Authority may not file a voluntary petition under or be

1 or become a debtor or bankrupt under the federal bankruptcy
2 code or any other federal or State bankruptcy, insolvency, or
3 moratorium law or statute as may, from time to time, be in
4 effect and neither any public officer nor any organization,
5 entity, or other person shall authorize the Authority to be or
6 become a debtor or bankrupt under the federal bankruptcy code
7 or any other federal or State bankruptcy, insolvency, or
8 moratorium law or statute, as may, from time to time be in
9 effect.

10 The Authority may not guarantee the debts of another.

11 Section 3-5. Certain powers of the Authority. The Authority
12 shall have the power to:

13 (1) sue and be sued;

14 (2) have a seal and alter the same at pleasure;

15 (3) make and alter by-laws for its organization and
16 internal management and make rules and regulations governing
17 the use of its property and facilities;

18 (4) appoint by and with the consent of the Attorney
19 General, assistant attorneys for such Authority; those
20 assistant attorneys shall be under the control, direction, and
21 supervision of the Attorney General and shall serve at his or
22 her pleasure;

23 (5) retain special counsel, subject to the approval of the
24 Attorney General, as needed from time to time, and fix their
25 compensation, provided however, such special counsel shall be

1 subject to the control, direction and supervision of the
2 Attorney General and shall serve at his or her pleasure;

3 (6) make and execute contracts and all other instruments
4 necessary or convenient for the exercise of its powers and
5 functions under this Section and to commence any action to
6 protect or enforce any right conferred upon it by any law,
7 contract, or other agreement, provided that any underwriter,
8 financial advisor, bond counsel, or other professional
9 providing services to the Authority may be selected pursuant to
10 solicitations issued and completed by the Governor's Office of
11 Management and Budget for those services;

12 (7) appoint officers and agents, prescribe their duties and
13 qualifications, fix their compensation and engage the services
14 of private consultants and counsel on a contract basis for
15 rendering professional and technical assistance and advice,
16 provided that this shall not be construed to limit the
17 authority of the Attorney General provided in Section 4 of the
18 Attorney General Act;

19 (8) pay its operating expenses and its financing costs,
20 including its reasonable costs of issuance and sale and those
21 of the Attorney General, if any, in a total amount not greater
22 than 1% of the principal amount of the proceeds of the bond
23 sale;

24 (9) borrow money in its name and issue negotiable bonds and
25 provide for the rights of the holders thereof as otherwise
26 provided in this Act;

1 (10) procure insurance against any loss in connection with
2 its activities, properties, and assets in such amount and from
3 such insurers as it deems desirable;

4 (11) invest any funds or other moneys under its custody and
5 control in investment securities or under any related bond
6 facility;

7 (12) as security for the payment of the principal of and
8 interest on any Bonds issued by it pursuant to this Act and any
9 agreement made in connection therewith and for its obligations
10 under any Related Bond Facility, pledge all or any part of the
11 tobacco settlement revenues;

12 (13) do any and all things necessary or convenient to carry
13 out its purposes and exercise the powers expressly given and
14 granted in this Section.

15 Section 3-6. Bonds of the Authority.

16 (a) The Authority shall have power and is hereby authorized
17 to issue bonds, in an amount no greater than \$1,750,000,000, to
18 provide sufficient funds for the purchase of all or a portion
19 of the tobacco settlement revenues pursuant to Section 3-3 of
20 this Act and the payment or provision for financing costs.

21 The issuance of bonds shall be authorized by a resolution
22 of the Authority, adopted by a majority of the members of the
23 Authority without further authorization or approval. The issue
24 of the bonds of the Authority shall be special revenue
25 obligations payable from and secured by a pledge of the pledged

1 tobacco revenues, those proceeds of such Bonds deposited in a
2 reserve fund for the benefit of Bondholders, and earnings on
3 funds of the Authority, upon such terms and conditions as
4 specified by the Authority in the resolution under which the
5 Bonds are issued or in a related trust indenture.

6 The Authority shall have the power and is hereby authorized
7 from time to time to issue bonds, whenever it deems refunding
8 expedient, to refund any outstanding bonds by the issuance of
9 new bonds, provided that the refunding debt matures within the
10 term of the bonds to be refunded. The refunding bonds may be
11 exchanged for the bonds to be refunded or sold and the proceeds
12 applied to the purchase, redemption, or payment of such bonds.

13 (b) The bonds of each issue shall be dated, shall bear
14 interest (which may be includable in or excludable from the
15 gross income of the owners for federal income tax purposes) at
16 such fixed or variable rates, payable at or prior to maturity,
17 and shall mature at such time or times, not more than 19 years
18 after the date of issuance, as may be determined by the
19 Authority and may be made redeemable before maturity, at the
20 option of the Authority, at such price or prices and under such
21 terms and conditions as may be fixed by the Authority. The
22 principal and interest of such bonds may be made payable in any
23 lawful medium. The resolution or the certificate of the officer
24 of the Authority approving the issuance of the bonds shall
25 determine the form of the bonds and the manner of execution of
26 the bonds and shall fix the denomination or denominations of

1 the bonds and the place or places of payment of principal and
2 interest thereof, which may be at any bank or trust company
3 within or outside the State. If any officer whose signature or
4 a facsimile thereof appears on any bonds shall cease to be such
5 officer before the delivery of such bonds, such signature or
6 facsimile shall nevertheless be valid and sufficient for all
7 purposes the same as if he had remained in office until such
8 delivery.

9 (c) The Authority may sell such bonds pursuant to notice of
10 sale and public bid or by negotiated sale in accordance with
11 the corresponding procedures applicable to like sales of
12 general obligation bonds under Section 11 of the General
13 Obligation Bond Act. The proceeds of such bonds shall be
14 disbursed for the purposes for which such bonds were issued
15 under such restrictions as the sale agreement and the
16 resolution authorizing the issuance of such bonds or the
17 related trust indenture may provide. Such bonds shall be issued
18 upon approval of the Authority and without any other approvals,
19 filings, proceedings or the happening of any other conditions
20 or things other than the approvals, findings, proceedings,
21 conditions, and things that are specified and required by this
22 Act.

23 (d) Any pledge made by the Authority shall be valid and
24 binding at the time the pledge is made. The assets, property,
25 revenues, reserves, or earnings so pledged shall immediately be
26 subject to the lien of such pledge without any physical

1 delivery thereof or further act and the lien of any such pledge
2 shall be valid and binding as against all parties having claims
3 of any kind in tort, contract, or otherwise against the
4 Authority, irrespective of whether such parties have notice
5 thereof. Notwithstanding any other provision of law to the
6 contrary, neither the resolution nor any indenture or other
7 instrument by which a pledge is created or by which the
8 Authority's interest in pledged assets, property, revenues,
9 reserves, or earnings thereon is assigned need be filed,
10 perfected or recorded in any public records in order to protect
11 the pledge thereof or perfect the lien thereof as against third
12 parties, except that a copy thereof shall be filed in the
13 records of the Authority.

14 (e) Whether or not the bonds of the Authority are of such
15 form and character as to be negotiable instruments under the
16 terms of the Uniform Commercial Code, the bonds are hereby made
17 negotiable instruments for all purposes, subject only to the
18 provisions of the bonds for registration.

19 (f) At the sole discretion of the Authority, any bonds
20 issued by the Authority and any related bond facility made
21 under the provisions of this Act shall be secured by a
22 resolution or trust indenture by and between the Authority and
23 the indenture trustee, which may be any trust company or bank
24 having the powers of a trust company, whether located within or
25 outside the State. Such trust indenture or resolution providing
26 for the issuance of such bonds shall, without limitation, (i)

1 provide for the creation and maintenance of such reserves as
2 the Authority shall determine to be proper; (ii) include
3 covenants setting forth the duties of the Authority in relation
4 to the bonds, the income of the Authority, the related sale
5 agreement and the related tobacco settlement revenues; (iii)
6 contain provisions relating to the prompt transfer of the
7 residual interest upon receipt of the tobacco settlement
8 revenues; (iv) contain provisions respecting the custody,
9 safeguarding, and application of all moneys and securities; (v)
10 contain such provisions for protecting and enforcing against
11 the Authority or the State the rights and remedies (pursuant
12 thereto and to the sale agreement) of the owners of the bonds
13 and any provider of a related bond facility as may be
14 reasonable and proper and not in violation of law; and (vi)
15 contain such other provisions as the Authority may deem
16 reasonable and proper for priorities and subordination among
17 the owners of the bonds and providers of related bond
18 facilities. Any reference in this Act to a resolution of the
19 Authority shall include any trust indenture authorized
20 thereby.

21 (g) The net proceeds of bonds and any earnings thereon
22 shall never be pledged to, nor made available for, payment of
23 the bonds or any interest or redemption price thereon or any
24 other debt or obligation of the Authority. The net proceeds of
25 bonds shall be deposited by the State in the Tobacco Settlement
26 Bond Proceeds Account, and shall be used by the State (either

1 directly or by reimbursement) for the payment of outstanding
2 obligations of the General Revenue Fund or to supplement the
3 Tobacco Settlement Residual Account to pay for appropriated
4 obligations of the Tobacco Settlement Recovery Fund for State
5 fiscal year 2011 through 2013. Any residual interest in tobacco
6 settlement revenues shall be deposited in the Tobacco
7 Settlement Residual Account, and shall be used by the State
8 (either directly or by reimbursement) in accordance with
9 Section 6z-43 of the State Finance Act for appropriated
10 obligations of the Tobacco Settlement Recovery Fund. With
11 respect to any bonds of the Authority, the interest on which is
12 intended to be excludable from the gross income of the owners
13 for federal income tax purposes, the Authority and the
14 authorized officers may provide restrictions on the use of net
15 proceeds of bonds and other amounts in the sale agreement or
16 otherwise in a tax regulatory agreement only as necessary to
17 assure such tax-exempt status.

18 (h) The Authority may enter into, amend, or terminate, as
19 it determines to be necessary or appropriate, any related bond
20 facility (i) to facilitate the issuance, sale, resale,
21 purchase, repurchase, or payment of bonds, interest rate
22 savings or market diversification, or the making or performance
23 of swap contracts, including without limitation bond
24 insurance, letters of credit and liquidity facilities, or (ii)
25 to attempt to manage or hedge risk or achieve a desirable
26 effective interest rate or cash flow. Such facility shall be

1 made upon the terms and conditions established by the
2 Authority, including without limitation provisions as to
3 security, default, termination, payment, remedy, jurisdiction
4 and consent to service of process.

5 (i) The Authority may enter into, amend, or terminate, as
6 it deems to be necessary or appropriate, any related bond
7 facility to place the obligations or investments of the
8 Authority, as represented by the bonds or the investment of
9 reserves securing the bonds or related bond facilities or other
10 tobacco settlement revenues or its other assets, in whole or in
11 part, on the interest rate, cash flow, or other basis approved
12 by the Authority, which facility may include without limitation
13 contracts commonly known as interest rate swap agreements,
14 forward purchase contracts, or guaranteed investment contracts
15 and futures or contracts providing for payments based on levels
16 of, or changes in, interest rates. These contracts or
17 arrangements may be entered into by the Authority in connection
18 with, or incidental to, entering into, or maintaining any (i)
19 agreement which secures bonds of the Authority or (ii)
20 investment or contract providing for investment of reserves or
21 similar facility guaranteeing an investment rate for a period
22 of years not to exceed the underlying term of the bonds. The
23 determination by the Authority that a related bond facility or
24 the amendment or termination thereof is necessary or
25 appropriate as aforesaid shall be conclusive. Any related bond
26 facility may contain such provisions as to security, default,

1 termination, payment, remedy, jurisdiction, and consent to
2 service of process and other terms and conditions as determined
3 by the Authority, after giving due consideration to the
4 creditworthiness of the counterparty or other obligated party,
5 including any rating by any nationally recognized rating
6 agency, and any other criteria as may be appropriate.

7 (j) Bonds or any related bond facility may contain a
8 recital that they are issued or executed, respectively,
9 pursuant to this Act, which recital shall be conclusive
10 evidence of their validity, respectively, and the regularity of
11 the proceedings relating thereto.

12 Section 3-7. State not liable on bonds or related bond
13 facilities. No bond or related bond facility shall constitute
14 an indebtedness or an obligation of the State of Illinois or
15 any subdivision thereof, within the purview of any
16 constitutional or statutory limitation or provision or a charge
17 against the general credit or taxing powers, if any, of any of
18 them but shall be payable solely from pledged tobacco revenues.
19 No owner of any bond or provider of any related bond facility
20 shall have the right to compel the exercise of the taxing power
21 of the State to pay any principal installment of, redemption
22 premium, if any, or interest on the bonds or to make any
23 payment due under any related bond facility.

24 Section 3-8. Agreement with the State.

1 (a) The State pledges and agrees with the Authority, and
2 the owners of the bonds of the Authority in which the Authority
3 has included such pledge and agreement, that the State shall
4 (i) irrevocably direct the escrow agent under the Master
5 Settlement Agreement to transfer all pledged tobacco revenues
6 directly to the Authority or its assignee, (ii) enforce its
7 right to collect all moneys due from the participating
8 manufacturers under the Master Settlement Agreement and, in
9 addition, shall diligently enforce the qualifying statute as
10 contemplated in Section IX(d) (2) (B) of the Master Settlement
11 Agreement against all nonparticipating manufacturers selling
12 tobacco products in the State and that are not in compliance
13 with the qualifying statute, in each case in the manner and to
14 the extent deemed necessary in the judgment of and consistent
15 with the discretion of the Attorney General of the State,
16 provided, however, that the sale agreement shall provide (a)
17 that the remedies available to the Authority and the
18 bondholders for any breach of the pledges and agreements of the
19 State set forth in this clause shall be limited to injunctive
20 relief, and (b) that the State shall be deemed to have
21 diligently enforced the qualifying statute so long as there has
22 been no judicial determination by a court of competent
23 jurisdiction in this State, in an action commenced by a
24 participating tobacco manufacturer under the Master Settlement
25 Agreement, that the State has failed to diligently enforce the
26 qualifying statute for the purposes of Section IX(d) (2) (B) of

1 the Master Settlement Agreement, (iii) in any materially
2 adverse way, neither amend the Master Settlement Agreement nor
3 the Consent Decree or take any other action that would (a)
4 impair the Authority's right to receive pledged tobacco
5 revenues, or (b) limit or alter the rights hereby vested in the
6 Authority to fulfill the terms of its agreements with the
7 bondholders, or (c) impair the rights and remedies of such
8 bondholders or the security for such bonds until such bonds,
9 together with the interest thereon and all costs and expenses
10 in connection with any action or proceedings by or on behalf of
11 such bondholders, are fully paid and discharged (provided, that
12 nothing herein shall be construed to preclude the State's
13 regulation of smoking, smoking cessation activities and laws,
14 and taxation and regulation of the sale of cigarettes or the
15 like or to restrict the right of the State to amend, modify,
16 repeal, or otherwise alter statutes imposing or relating to the
17 taxes), and (iv) not amend, supersede or repeal the Master
18 Settlement Agreement or the qualifying statute in any way that
19 would materially adversely affect the amount of any payment to,
20 or the rights to such payments of, the Authority or such
21 bondholders. This pledge and agreement may be included in the
22 sale agreement and the Authority may include this pledge and
23 agreement in any contract with the bondholders of the
24 Authority.

25 (b) The provisions of this Act, the bonds issued pursuant
26 to this Act, and the pledges and agreements by the State and

1 the Authority to the bondholders shall be not be interpreted or
2 construed to limit or impair the authority or discretion of the
3 Attorney General to administer and enforce provisions of the
4 Master Settlement Agreement or to direct, control, and settle
5 any litigation or arbitration proceeding arising from or
6 relating to the Master Settlement Agreement.

7 Section 3-9. Enforcement of contract. The provisions of
8 this Act and of any resolution or proceeding authorizing the
9 issuance of bonds or a related bond facility shall constitute a
10 contract with the holders of the bonds or the related bond
11 facility, and the provisions thereof shall be enforceable
12 either by mandamus or other proceeding in any Illinois court of
13 competent jurisdiction to enforce and compel the performance of
14 all duties required by this Act and by any resolution
15 authorizing the issuance of bonds a related bond facility
16 adopted in response hereto.

17 Section 3-10. Bonds as legal investments. The State and all
18 counties, cities, villages, incorporated towns and other
19 municipal corporations, political subdivisions and public
20 bodies, and public officers of any thereof, all banks, bankers,
21 trust companies, savings banks and institutions, building and
22 loan associations, savings and loan associations, investment
23 companies, and other persons carrying on a banking business,
24 all insurance companies, insurance associations, and other

1 persons carrying on an insurance business, and all executors,
2 administrators, guardians, trustees, and other fiduciaries may
3 legally invest any sinking funds, moneys, or other funds
4 belonging to them or within their control in any bonds issued
5 pursuant to this Act, it being the purpose of this Section to
6 authorize the investment in such bonds of all sinking,
7 insurance, retirement, compensation, pension, and trust funds,
8 whether owned or controlled by private or public persons or
9 officers; provided, however, that nothing contained in this
10 Section may be construed as relieving any person, firm, or
11 corporation from any duty of exercising reasonable care in
12 selecting securities for purchase or investment.

13 Section 3-12. Exemption from taxation. It is hereby
14 determined that the creation of the Authority and the carrying
15 out of its corporate purposes are in all respects for the
16 benefit of the people of the State and are public purposes.
17 Accordingly, the property of the Authority, its income and its
18 operations shall be exempt from taxation. The Authority shall
19 not be required to pay any fees, taxes or assessments of any
20 kind, whether state or local, including, but not limited to,
21 fees, taxes, ad valorem taxes on real property, sales taxes or
22 other taxes, upon or with respect to any property owned by it
23 or under its jurisdiction, control or supervision, or upon the
24 uses thereof, or upon or with respect to its activities or
25 operations in furtherance of the powers conferred upon it by

1 this Act.

2 Section 3-13. Illinois State Auditing Act. The Auditor
3 General shall conduct financial audits and program audits of
4 the Authority, in accordance with the Illinois State Auditing
5 Act.

6 Section 3-15. Supplemental nature of Act; construction and
7 purpose. The powers conferred by this Act shall be in addition
8 to and supplemental to the powers conferred by any other law,
9 general or special, and may be exercised notwithstanding the
10 provisions of any other such law. Insofar as the provisions of
11 this Act are inconsistent with the provisions of any other law,
12 general or special, the provisions of this Act shall be
13 controlling.

14 Section 3-16. Severability. If any provision of this Act is
15 held invalid, such provision shall be deemed to be excised and
16 the invalidity thereof shall not affect any of the other
17 provisions of this Act. If the application of any provision of
18 this Act to any person or circumstance is held invalid, it
19 shall not affect the application of such provision to such
20 persons or circumstances other than those as to which it is
21 held invalid.

22

ARTICLE 5. AMENDATORY PROVISIONS

1 Section 5-5. The Illinois Administrative Procedure Act is
2 amended by changing Section 5-45 as follows:

3 (5 ILCS 100/5-45) (from Ch. 127, par. 1005-45)

4 Sec. 5-45. Emergency rulemaking.

5 (a) "Emergency" means the existence of any situation that
6 any agency finds reasonably constitutes a threat to the public
7 interest, safety, or welfare.

8 (b) If any agency finds that an emergency exists that
9 requires adoption of a rule upon fewer days than is required by
10 Section 5-40 and states in writing its reasons for that
11 finding, the agency may adopt an emergency rule without prior
12 notice or hearing upon filing a notice of emergency rulemaking
13 with the Secretary of State under Section 5-70. The notice
14 shall include the text of the emergency rule and shall be
15 published in the Illinois Register. Consent orders or other
16 court orders adopting settlements negotiated by an agency may
17 be adopted under this Section. Subject to applicable
18 constitutional or statutory provisions, an emergency rule
19 becomes effective immediately upon filing under Section 5-65 or
20 at a stated date less than 10 days thereafter. The agency's
21 finding and a statement of the specific reasons for the finding
22 shall be filed with the rule. The agency shall take reasonable
23 and appropriate measures to make emergency rules known to the
24 persons who may be affected by them.

1 (c) An emergency rule may be effective for a period of not
2 longer than 150 days, but the agency's authority to adopt an
3 identical rule under Section 5-40 is not precluded. No
4 emergency rule may be adopted more than once in any 24 month
5 period, except that this limitation on the number of emergency
6 rules that may be adopted in a 24 month period does not apply
7 to (i) emergency rules that make additions to and deletions
8 from the Drug Manual under Section 5-5.16 of the Illinois
9 Public Aid Code or the generic drug formulary under Section
10 3.14 of the Illinois Food, Drug and Cosmetic Act, (ii)
11 emergency rules adopted by the Pollution Control Board before
12 July 1, 1997 to implement portions of the Livestock Management
13 Facilities Act, (iii) emergency rules adopted by the Illinois
14 Department of Public Health under subsections (a) through (i)
15 of Section 2 of the Department of Public Health Act when
16 necessary to protect the public's health, ~~or~~ (iv) emergency
17 rules adopted pursuant to subsection (n) of this Section, or
18 (v) emergency rules adopted pursuant to subsection (o) of this
19 Section. Two or more emergency rules having substantially the
20 same purpose and effect shall be deemed to be a single rule for
21 purposes of this Section.

22 (d) In order to provide for the expeditious and timely
23 implementation of the State's fiscal year 1999 budget,
24 emergency rules to implement any provision of Public Act 90-587
25 or 90-588 or any other budget initiative for fiscal year 1999
26 may be adopted in accordance with this Section by the agency

1 charged with administering that provision or initiative,
2 except that the 24-month limitation on the adoption of
3 emergency rules and the provisions of Sections 5-115 and 5-125
4 do not apply to rules adopted under this subsection (d). The
5 adoption of emergency rules authorized by this subsection (d)
6 shall be deemed to be necessary for the public interest,
7 safety, and welfare.

8 (e) In order to provide for the expeditious and timely
9 implementation of the State's fiscal year 2000 budget,
10 emergency rules to implement any provision of this amendatory
11 Act of the 91st General Assembly or any other budget initiative
12 for fiscal year 2000 may be adopted in accordance with this
13 Section by the agency charged with administering that provision
14 or initiative, except that the 24-month limitation on the
15 adoption of emergency rules and the provisions of Sections
16 5-115 and 5-125 do not apply to rules adopted under this
17 subsection (e). The adoption of emergency rules authorized by
18 this subsection (e) shall be deemed to be necessary for the
19 public interest, safety, and welfare.

20 (f) In order to provide for the expeditious and timely
21 implementation of the State's fiscal year 2001 budget,
22 emergency rules to implement any provision of this amendatory
23 Act of the 91st General Assembly or any other budget initiative
24 for fiscal year 2001 may be adopted in accordance with this
25 Section by the agency charged with administering that provision
26 or initiative, except that the 24-month limitation on the

1 adoption of emergency rules and the provisions of Sections
2 5-115 and 5-125 do not apply to rules adopted under this
3 subsection (f). The adoption of emergency rules authorized by
4 this subsection (f) shall be deemed to be necessary for the
5 public interest, safety, and welfare.

6 (g) In order to provide for the expeditious and timely
7 implementation of the State's fiscal year 2002 budget,
8 emergency rules to implement any provision of this amendatory
9 Act of the 92nd General Assembly or any other budget initiative
10 for fiscal year 2002 may be adopted in accordance with this
11 Section by the agency charged with administering that provision
12 or initiative, except that the 24-month limitation on the
13 adoption of emergency rules and the provisions of Sections
14 5-115 and 5-125 do not apply to rules adopted under this
15 subsection (g). The adoption of emergency rules authorized by
16 this subsection (g) shall be deemed to be necessary for the
17 public interest, safety, and welfare.

18 (h) In order to provide for the expeditious and timely
19 implementation of the State's fiscal year 2003 budget,
20 emergency rules to implement any provision of this amendatory
21 Act of the 92nd General Assembly or any other budget initiative
22 for fiscal year 2003 may be adopted in accordance with this
23 Section by the agency charged with administering that provision
24 or initiative, except that the 24-month limitation on the
25 adoption of emergency rules and the provisions of Sections
26 5-115 and 5-125 do not apply to rules adopted under this

1 subsection (h). The adoption of emergency rules authorized by
2 this subsection (h) shall be deemed to be necessary for the
3 public interest, safety, and welfare.

4 (i) In order to provide for the expeditious and timely
5 implementation of the State's fiscal year 2004 budget,
6 emergency rules to implement any provision of this amendatory
7 Act of the 93rd General Assembly or any other budget initiative
8 for fiscal year 2004 may be adopted in accordance with this
9 Section by the agency charged with administering that provision
10 or initiative, except that the 24-month limitation on the
11 adoption of emergency rules and the provisions of Sections
12 5-115 and 5-125 do not apply to rules adopted under this
13 subsection (i). The adoption of emergency rules authorized by
14 this subsection (i) shall be deemed to be necessary for the
15 public interest, safety, and welfare.

16 (j) In order to provide for the expeditious and timely
17 implementation of the provisions of the State's fiscal year
18 2005 budget as provided under the Fiscal Year 2005 Budget
19 Implementation (Human Services) Act, emergency rules to
20 implement any provision of the Fiscal Year 2005 Budget
21 Implementation (Human Services) Act may be adopted in
22 accordance with this Section by the agency charged with
23 administering that provision, except that the 24-month
24 limitation on the adoption of emergency rules and the
25 provisions of Sections 5-115 and 5-125 do not apply to rules
26 adopted under this subsection (j). The Department of Public Aid

1 may also adopt rules under this subsection (j) necessary to
2 administer the Illinois Public Aid Code and the Children's
3 Health Insurance Program Act. The adoption of emergency rules
4 authorized by this subsection (j) shall be deemed to be
5 necessary for the public interest, safety, and welfare.

6 (k) In order to provide for the expeditious and timely
7 implementation of the provisions of the State's fiscal year
8 2006 budget, emergency rules to implement any provision of this
9 amendatory Act of the 94th General Assembly or any other budget
10 initiative for fiscal year 2006 may be adopted in accordance
11 with this Section by the agency charged with administering that
12 provision or initiative, except that the 24-month limitation on
13 the adoption of emergency rules and the provisions of Sections
14 5-115 and 5-125 do not apply to rules adopted under this
15 subsection (k). The Department of Healthcare and Family
16 Services may also adopt rules under this subsection (k)
17 necessary to administer the Illinois Public Aid Code, the
18 Senior Citizens and Disabled Persons Property Tax Relief and
19 Pharmaceutical Assistance Act, the Senior Citizens and
20 Disabled Persons Prescription Drug Discount Program Act (now
21 the Illinois Prescription Drug Discount Program Act), and the
22 Children's Health Insurance Program Act. The adoption of
23 emergency rules authorized by this subsection (k) shall be
24 deemed to be necessary for the public interest, safety, and
25 welfare.

26 (l) In order to provide for the expeditious and timely

1 implementation of the provisions of the State's fiscal year
2 2007 budget, the Department of Healthcare and Family Services
3 may adopt emergency rules during fiscal year 2007, including
4 rules effective July 1, 2007, in accordance with this
5 subsection to the extent necessary to administer the
6 Department's responsibilities with respect to amendments to
7 the State plans and Illinois waivers approved by the federal
8 Centers for Medicare and Medicaid Services necessitated by the
9 requirements of Title XIX and Title XXI of the federal Social
10 Security Act. The adoption of emergency rules authorized by
11 this subsection (l) shall be deemed to be necessary for the
12 public interest, safety, and welfare.

13 (m) In order to provide for the expeditious and timely
14 implementation of the provisions of the State's fiscal year
15 2008 budget, the Department of Healthcare and Family Services
16 may adopt emergency rules during fiscal year 2008, including
17 rules effective July 1, 2008, in accordance with this
18 subsection to the extent necessary to administer the
19 Department's responsibilities with respect to amendments to
20 the State plans and Illinois waivers approved by the federal
21 Centers for Medicare and Medicaid Services necessitated by the
22 requirements of Title XIX and Title XXI of the federal Social
23 Security Act. The adoption of emergency rules authorized by
24 this subsection (m) shall be deemed to be necessary for the
25 public interest, safety, and welfare.

26 (n) In order to provide for the expeditious and timely

1 implementation of the provisions of the State's fiscal year
2 2010 budget, emergency rules to implement any provision of this
3 amendatory Act of the 96th General Assembly or any other budget
4 initiative authorized by the 96th General Assembly for fiscal
5 year 2010 may be adopted in accordance with this Section by the
6 agency charged with administering that provision or
7 initiative. The adoption of emergency rules authorized by this
8 subsection (n) shall be deemed to be necessary for the public
9 interest, safety, and welfare. The rulemaking authority
10 granted in this subsection (n) shall apply only to rules
11 promulgated during Fiscal Year 2010.

12 (o) In order to provide for the expeditious and timely
13 implementation of the provisions of the State's fiscal year
14 2011 budget, emergency rules to implement any provision of this
15 amendatory Act of the 96th General Assembly or any other budget
16 initiative authorized by the 96th General Assembly for fiscal
17 year 2011 may be adopted in accordance with this Section by the
18 agency charged with administering that provision or
19 initiative. The adoption of emergency rules authorized by this
20 subsection (o) is deemed to be necessary for the public
21 interest, safety, and welfare. The rulemaking authority
22 granted in this subsection (o) applies only to rules
23 promulgated on or after the effective date of this amendatory
24 Act of the 96th General Assembly through June 30, 2011.

25 (Source: P.A. 95-12, eff. 7-2-07; 95-331, eff. 8-21-07; 96-45,
26 eff. 7-15-09.)

1 Section 5-10. The General Assembly Compensation Act is
2 amended by adding Section 1.6 as follows:

3 (25 ILCS 115/1.6 new)

4 Sec. 1.6. FY11 furlough days. During the first 6 months of
5 the fiscal year beginning July 1, 2010, every member of the
6 96th General Assembly is mandatorily required to forfeit 6 days
7 of compensation. The State Comptroller shall deduct the
8 equivalent of 1/365th of the annual salary of each member of
9 the 96th General Assembly from the compensation of that member
10 in each of the first 6 months of the fiscal year. During the
11 second 6 months of the fiscal year beginning July 1, 2010,
12 every member of the 97th General Assembly is mandatorily
13 required to forfeit 6 days of compensation. The State
14 Comptroller shall deduct the equivalent of 1/365th of the
15 annual salary of each member of the 97th General Assembly from
16 the compensation of that member in each of the second 6 months
17 of the fiscal year. For purposes of this Section, annual
18 compensation includes compensation paid to each member by the
19 State for one year of service pursuant to Section 1, except any
20 payments made for mileage and allowances for travel and meals.
21 The forfeiture required by this Section is not considered a
22 change in salary and shall not impact pension or other benefits
23 provided to members of the General Assembly.

1 Section 5-15. The State Finance Act is amended by changing
2 Sections 6z-43, 14.1, and 25 and by adding Sections 5h and 14.2
3 as follows:

4 (30 ILCS 105/5h new)

5 Sec. 5h. Cash flow borrowing and general funds liquidity.

6 (a) In order to meet cash flow deficits and to maintain
7 liquidity in the General Revenue Fund and the Common School
8 Fund, this Section shall constitute the irrevocable and
9 continuing authority for and direction to the State Treasurer
10 and the State Comptroller to make transfers to the General
11 Revenue Fund or the Common School Fund, as directed by the
12 Governor, out of special funds of the State, to the extent
13 allowed by federal law. No transfer may be made from a fund
14 under this Section that would have the effect of reducing the
15 available balance in the fund to an amount less than the amount
16 remaining unexpended and unreserved from the total
17 appropriation from that fund estimated to be expended for that
18 fiscal year. No such transfer may reduce the cumulative balance
19 of all of the special funds of the State to an amount less than
20 the total debt service payable during the 12 months immediately
21 following the date of the transfer on any bonded indebtedness
22 of the State and any certificates issued under the Short Term
23 Borrowing Act. Notwithstanding any other provision of this
24 Section, no such transfer may be made from any special fund
25 that is exclusively collected by or appropriated to any other

1 constitutional officer without the written approval of that
2 constitutional officer.

3 (b) If moneys have been transferred to the General Revenue
4 Fund or the Common School Fund pursuant to subsection (a) of
5 this Section, this amendatory Act of the 96th General Assembly
6 shall constitute the irrevocable and continuing authority for
7 and direction to the State Treasurer and State Comptroller to
8 reimburse the funds of origin from the General Revenue Fund or
9 the Common School Fund, as appropriate, by transferring to the
10 funds of origin, at such times and in such amounts as directed
11 by the Governor when necessary to support appropriated
12 expenditures from the funds, an amount equal to that
13 transferred from them plus any interest that would have accrued
14 thereon had the transfer not occurred, except that any moneys
15 transferred pursuant to subsection (a) of this Section shall be
16 repaid to the fund of origin within 18 months after the date on
17 which they were borrowed.

18 (c) On the first day of each quarterly period in each
19 fiscal year, the Governor's Office of Management and Budget
20 shall provide to the President and the Minority Leader of the
21 Senate, the Speaker and the Minority Leader of the House of
22 Representatives, and the Commission on Government Forecasting
23 and Accountability a report on all transfers made pursuant to
24 this Section in the prior quarterly period. The report must be
25 provided in both written and electronic format. The report must
26 include all of the following:

1 (1) The date each transfer was made.

2 (2) The amount of each transfer.

3 (3) In the case of a transfer from the General Revenue
4 Fund or the Common School Fund to a fund of origin pursuant
5 to subsection (b) of this Section, the amount of interest
6 being paid to the fund of origin.

7 (4) The end of day balance of both the fund of origin
8 and the General Revenue Fund or the Common School Fund,
9 whichever the case may be, on the date the transfer was
10 made.

11 (30 ILCS 105/6z-43)

12 Sec. 6z-43. Tobacco Settlement Recovery Fund.

13 (a) There is created in the State Treasury a special fund
14 to be known as the Tobacco Settlement Recovery Fund, which
15 shall contain 3 accounts: (i) the General Account, (ii) the
16 Tobacco Settlement Bond Proceeds Account and (iii) the Tobacco
17 Settlement Residual Account. There shall be deposited into the
18 several accounts of the Tobacco Settlement Recovery Fund ~~into~~
19 ~~which shall be deposited~~ all monies paid to the State pursuant
20 to (1) the Master Settlement Agreement entered in the case of
21 People of the State of Illinois v. Philip Morris, et al.
22 (Circuit Court of Cook County, No. 96-L13146) and (2) any
23 settlement with or judgment against any tobacco product
24 manufacturer other than one participating in the Master
25 Settlement Agreement in satisfaction of any released claim as

1 defined in the Master Settlement Agreement, as well as any
2 other monies as provided by law. Moneys ~~All earnings on Fund~~
3 ~~investments~~ shall be deposited into the Tobacco Settlement Bond
4 Proceeds Account and the Tobacco Settlement Residual Account as
5 provided by the terms of the Railsplitter Tobacco Settlement
6 Authority Act, provided that an annual amount not less than
7 \$2,500,000, subject to appropriation, shall be deposited into
8 the Tobacco Settlement Residual Account for use by the Attorney
9 General for enforcement of the Master Settlement Agreement. All
10 other moneys available to be deposited into the Tobacco
11 Settlement Recovery Fund shall be deposited into the General
12 Account. An investment made from moneys credited to a specific
13 account constitutes part of that account and such account shall
14 be credited with all income from the investment of such moneys.
15 ~~Fund. Upon the creation of the Fund, the State Comptroller~~
16 ~~shall order the State Treasurer to transfer into the Fund any~~
17 ~~monies paid to the State as described in item (1) or (2) of~~
18 ~~this Section before the creation of the Fund plus any interest~~
19 ~~earned on the investment of those monies.~~ The Treasurer may
20 invest the moneys in the several accounts the Fund in the same
21 manner, in the same types of investments, and subject to the
22 same limitations provided in the Illinois Pension Code for the
23 investment of pension funds other than those established under
24 Article 3 or 4 of the Code. Notwithstanding the foregoing, to
25 the extent necessary to preserve the tax-exempt status of any
26 Bonds issued pursuant to the Railsplitter Tobacco Settlement

1 Authority Act, the interest on which is intended to be
2 excludable from the gross income of the owners for federal
3 income tax purposes, moneys on deposit in the Tobacco
4 Settlement Bond Proceeds Account and the Tobacco Settlement
5 Residual Account may be invested in obligations the interest
6 upon which is tax-exempt under the provisions of Section 103 of
7 the Internal Revenue Code of 1986, as now or hereafter amended,
8 or any successor code or provision.

9 (b) Moneys on deposit in the Tobacco Settlement Bond
10 Proceeds Account and the Tobacco Settlement Residual Account
11 may be expended, subject to appropriation, for the purposes
12 authorized in Section 6(g) of the Railsplitter Tobacco
13 Settlement Authority Act.

14 (c) ~~(b)~~ As soon as may be practical after June 30, 2001,
15 upon notification from and at the direction of the Governor,
16 the State Comptroller shall direct and the State Treasurer
17 shall transfer the unencumbered balance in the Tobacco
18 Settlement Recovery Fund as of June 30, 2001, as determined by
19 the Governor, into the Budget Stabilization Fund. The Treasurer
20 may invest the moneys in the Budget Stabilization Fund in the
21 same manner, in the same types of investments, and subject to
22 the same limitations provided in the Illinois Pension Code for
23 the investment of pension funds other than those established
24 under Article 3 or 4 of the Code.

25 ~~(c) In addition to any other deposits authorized by law,~~
26 ~~after any delivery of any bonds as authorized by Section 7.5 of~~

1 ~~the General Obligation Bond Act for deposits to the General~~
2 ~~Revenue Fund and the Budget Stabilization Fund (referred to as~~
3 ~~"tobacco securitization general obligation bonds"), the~~
4 ~~Governor shall certify, on or before June 30, 2003 and June 30~~
5 ~~of each year thereafter, to the State Comptroller and State~~
6 ~~Treasurer the total amount of principal of, interest on, and~~
7 ~~premium, if any, due on those bonds in the next fiscal year~~
8 ~~beginning with amounts due in fiscal year 2004. As soon as~~
9 ~~practical after the annual payment of tobacco settlement moneys~~
10 ~~to the Tobacco Settlement Recovery Fund as described in item~~
11 ~~(1) of subsection (a), the State Treasurer and State~~
12 ~~Comptroller shall transfer from the Tobacco Settlement~~
13 ~~Recovery Fund to the General Obligation Bond Retirement and~~
14 ~~Interest Fund the amount certified by the Governor, plus any~~
15 ~~cumulative deficiency in those transfers for prior years.~~

16 (d) All federal financial participation moneys received
17 pursuant to expenditures from the Fund shall be deposited into
18 the General Account Fund.

19 (Source: P.A. 95-331, eff. 8-21-07.)

20 (30 ILCS 105/14.1) (from Ch. 127, par. 150.1)

21 Sec. 14.1. Appropriations for State contributions to the
22 State Employees' Retirement System; payroll requirements.

23 (a) Appropriations for State contributions to the State
24 Employees' Retirement System of Illinois shall be expended in
25 the manner provided in this Section. Except as otherwise

1 provided in subsections (a-1) and (a-2), at the time of each
2 payment of salary to an employee under the personal services
3 line item, payment shall be made to the State Employees'
4 Retirement System, from the amount appropriated for State
5 contributions to the State Employees' Retirement System, of an
6 amount calculated at the rate certified for the applicable
7 fiscal year by the Board of Trustees of the State Employees'
8 Retirement System under Section 14-135.08 of the Illinois
9 Pension Code. If a line item appropriation to an employer for
10 this purpose is exhausted or is unavailable due to any
11 limitation on appropriations that may apply, (including, but
12 not limited to, limitations on appropriations from the Road
13 Fund under Section 8.3 of the State Finance Act), the amounts
14 shall be paid under the continuing appropriation for this
15 purpose contained in the State Pension Funds Continuing
16 Appropriation Act.

17 (a-1) Beginning on the effective date of this amendatory
18 Act of the 93rd General Assembly through the payment of the
19 final payroll from fiscal year 2004 appropriations,
20 appropriations for State contributions to the State Employees'
21 Retirement System of Illinois shall be expended in the manner
22 provided in this subsection (a-1). At the time of each payment
23 of salary to an employee under the personal services line item
24 from a fund other than the General Revenue Fund, payment shall
25 be made for deposit into the General Revenue Fund from the
26 amount appropriated for State contributions to the State

1 Employees' Retirement System of an amount calculated at the
2 rate certified for fiscal year 2004 by the Board of Trustees of
3 the State Employees' Retirement System under Section 14-135.08
4 of the Illinois Pension Code. This payment shall be made to the
5 extent that a line item appropriation to an employer for this
6 purpose is available or unexhausted. No payment from
7 appropriations for State contributions shall be made in
8 conjunction with payment of salary to an employee under the
9 personal services line item from the General Revenue Fund.

10 (a-2) For fiscal year 2010 only, at the time of each
11 payment of salary to an employee under the personal services
12 line item from a fund other than the General Revenue Fund,
13 payment shall be made for deposit into the State Employees'
14 Retirement System of Illinois from the amount appropriated for
15 State contributions to the State Employees' Retirement System
16 of Illinois of an amount calculated at the rate certified for
17 fiscal year 2010 by the Board of Trustees of the State
18 Employees' Retirement System of Illinois under Section
19 14-135.08 of the Illinois Pension Code. This payment shall be
20 made to the extent that a line item appropriation to an
21 employer for this purpose is available or unexhausted. For
22 fiscal year 2010 only, no payment from appropriations for State
23 contributions shall be made in conjunction with payment of
24 salary to an employee under the personal services line item
25 from the General Revenue Fund.

26 (a-3) For fiscal year 2011 only, at the time of each

1 payment of salary to an employee under the personal services
2 line item from a fund other than the General Revenue Fund,
3 payment shall be made for deposit into the State Employees'
4 Retirement System of Illinois from the amount appropriated for
5 State contributions to the State Employees' Retirement System
6 of Illinois of an amount calculated at the rate certified for
7 fiscal year 2011 by the Board of Trustees of the State
8 Employees' Retirement System of Illinois under Section
9 14-135.08 of the Illinois Pension Code. This payment shall be
10 made to the extent that a line item appropriation to an
11 employer for this purpose is available or unexhausted. For
12 fiscal year 2011 only, no payment from appropriations for State
13 contributions shall be made in conjunction with payment of
14 salary to an employee under the personal services line item
15 from the General Revenue Fund prior to January 31, 2011.

16 (b) Except during the period beginning on the effective
17 date of this amendatory Act of the 93rd General Assembly and
18 ending at the time of the payment of the final payroll from
19 fiscal year 2004 appropriations, the State Comptroller shall
20 not approve for payment any payroll voucher that (1) includes
21 payments of salary to eligible employees in the State
22 Employees' Retirement System of Illinois and (2) does not
23 include the corresponding payment of State contributions to
24 that retirement system at the full rate certified under Section
25 14-135.08 for that fiscal year for eligible employees, unless
26 the balance in the fund on which the payroll voucher is drawn

1 is insufficient to pay the total payroll voucher, or
2 unavailable due to any limitation on appropriations that may
3 apply, including, but not limited to, limitations on
4 appropriations from the Road Fund under Section 8.3 of the
5 State Finance Act. If the State Comptroller approves a payroll
6 voucher under this Section for which the fund balance is
7 insufficient to pay the full amount of the required State
8 contribution to the State Employees' Retirement System, the
9 Comptroller shall promptly so notify the Retirement System.

10 (b-1) For fiscal year 2010 only, the State Comptroller
11 shall not approve for payment any non-General Revenue Fund
12 payroll voucher that (1) includes payments of salary to
13 eligible employees in the State Employees' Retirement System of
14 Illinois and (2) does not include the corresponding payment of
15 State contributions to that retirement system at the full rate
16 certified under Section 14-135.08 for that fiscal year for
17 eligible employees, unless the balance in the fund on which the
18 payroll voucher is drawn is insufficient to pay the total
19 payroll voucher, or unavailable due to any limitation on
20 appropriations that may apply, including, but not limited to,
21 limitations on appropriations from the Road Fund under Section
22 8.3 of the State Finance Act. If the State Comptroller approves
23 a payroll voucher under this Section for which the fund balance
24 is insufficient to pay the full amount of the required State
25 contribution to the State Employees' Retirement System of
26 Illinois, the Comptroller shall promptly so notify the

1 retirement system.

2 (c) Notwithstanding any other provisions of law, beginning
3 July 1, 2007, required State and employee contributions to the
4 State Employees' Retirement System of Illinois relating to
5 affected legislative staff employees shall be paid out of
6 moneys appropriated for that purpose to the Commission on
7 Government Forecasting and Accountability, rather than out of
8 the lump-sum appropriations otherwise made for the payroll and
9 other costs of those employees.

10 These payments must be made pursuant to payroll vouchers
11 submitted by the employing entity as part of the regular
12 payroll voucher process.

13 For the purpose of this subsection, "affected legislative
14 staff employees" means legislative staff employees paid out of
15 lump-sum appropriations made to the General Assembly, an
16 Officer of the General Assembly, or the Senate Operations
17 Commission, but does not include district-office staff or
18 employees of legislative support services agencies.

19 (Source: P.A. 95-707, eff. 1-11-08; 96-45, eff. 7-15-09.)

20 (30 ILCS 105/14.2 new)

21 Sec. 14.2. Fiscal year 2011 State officer compensation
22 forfeiture.

23 (a) During the fiscal year beginning on July 1, 2010, each
24 State officer listed in subsection (b) is required to forfeit
25 one day of compensation each month. The State Comptroller shall

1 deduct the equivalent of 1/261st of the annual compensation of
2 each of those State officers that is paid from the General
3 Revenue Fund from the compensation of that State officer in
4 each month of the fiscal year. For purposes of this Section,
5 annual compensation includes compensation paid to each of those
6 State officers by the State for one year of service, except any
7 payments made for mileage and allowances for travel and meals.
8 The forfeiture required by this Section is not considered a
9 change in salary and shall not impact pension or other benefits
10 provided to those State officers.

11 (b) "State officers" for the purposes of subsection (a) are
12 the following:

13 Governor

14 Lieutenant Governor

15 Secretary of State

16 Attorney General

17 Comptroller

18 State Treasurer

19 Department on Aging: Director

20 Department of Agriculture: Director and Assistant

21 Director

22 Department of Central Management Services: Director
23 and Assistant Directors

24 Department of Children and Family Services: Director

25 Department of Corrections: Director and Assistant
26 Director

1 Department of Commerce and Economic Opportunity:

2 Director and Assistant Director

3 Environmental Protection Agency: Director

4 Department of Financial and Professional Regulation:

5 Secretary and Directors

6 Department of Human Services: Secretary and Assistant

7 Secretaries

8 Department of Juvenile Justice: Director

9 Department of Labor: Director, Assistant Director,

10 Chief Factory Inspector, and Superintendent of Safety

11 Inspection and Education

12 Department of State Police: Director and Assistant

13 Director

14 Department of Military Affairs: Adjutant General and

15 Chief Assistants to the Adjutant General

16 Department of Natural Resources: Director, Assistant

17 Director, Mine Officers, and Miners' Examining Officers

18 Illinois Labor Relations Board: Chairman, State Labor

19 Relations Board members, and Local Labor Relations Board

20 members

21 Department of Healthcare and Family Services: Director

22 and Assistant Director

23 Department of Public Health: Director and Assistant

24 Director

25 Department of Revenue: Director and Assistant Director

26 Property Tax Appeal Board: Chairman and members

1 Department of Veterans' Affairs: Director and
2 Assistant Director

3 Civil Service Commission: Chairman and members

4 Commerce Commission: Chairman and members

5 State Board of Elections: Chairman, Vice-Chairman, and
6 members

7 Illinois Emergency Management Agency: Director and
8 Assistant Director

9 Department of Human Rights: Director

10 Human Rights Commission: Chairman and members

11 Illinois Workers' Compensation Commission: Chairman
12 and members

13 Liquor Control Commission: Chairman, members, and
14 Secretary

15 Executive Ethics Commission: members

16 Illinois Power Agency: Director

17 Pollution Control Board: Chairman and members

18 Prisoner Review Board: Chairman and members

19 Secretary of State Merit Commission: Chairman and
20 members

21 Educational Labor Relations Board: Chairman and
22 members

23 Department of Transportation: Secretary and Assistant
24 Secretary

25 Office of Small Business Utility Advocate: small
26 business utility advocate

1 Executive Inspector General for the Office of the
2 Governor

3 Executive Inspector General for the Office of the
4 Attorney General

5 Executive Inspector General for the Office of the
6 Secretary of State

7 Executive Inspector General for the Office of the
8 Comptroller

9 Executive Inspector General for the Office of the
10 Treasurer

11 Office of Auditor General: Auditor General and Deputy
12 Auditors General.

13 (30 ILCS 105/25) (from Ch. 127, par. 161)

14 Sec. 25. Fiscal year limitations.

15 (a) All appropriations shall be available for expenditure
16 for the fiscal year or for a lesser period if the Act making
17 that appropriation so specifies. A deficiency or emergency
18 appropriation shall be available for expenditure only through
19 June 30 of the year when the Act making that appropriation is
20 enacted unless that Act otherwise provides.

21 (b) Outstanding liabilities as of June 30, payable from
22 appropriations which have otherwise expired, may be paid out of
23 the expiring appropriations during the 2-month period ending at
24 the close of business on August 31. Any service involving
25 professional or artistic skills or any personal services by an

1 employee whose compensation is subject to income tax
2 withholding must be performed as of June 30 of the fiscal year
3 in order to be considered an "outstanding liability as of June
4 30" that is thereby eligible for payment out of the expiring
5 appropriation.

6 However, payment of tuition reimbursement claims under
7 Section 14-7.03 or 18-3 of the School Code may be made by the
8 State Board of Education from its appropriations for those
9 respective purposes for any fiscal year, even though the claims
10 reimbursed by the payment may be claims attributable to a prior
11 fiscal year, and payments may be made at the direction of the
12 State Superintendent of Education from the fund from which the
13 appropriation is made without regard to any fiscal year
14 limitations.

15 All outstanding liabilities as of June 30, 2010, payable
16 from appropriations that would otherwise expire at the
17 conclusion of the lapse period for fiscal year 2010, and
18 interest penalties payable on those liabilities under the State
19 Prompt Payment Act, may be paid out of the expiring
20 appropriations until December 31, 2010, without regard to the
21 fiscal year in which the payment is made, as long as vouchers
22 for the liabilities are received by the Comptroller no later
23 than August 31, 2010.

24 Medical payments may be made by the Department of Veterans'
25 Affairs from its appropriations for those purposes for any
26 fiscal year, without regard to the fact that the medical

1 services being compensated for by such payment may have been
2 rendered in a prior fiscal year.

3 Medical payments may be made by the Department of
4 Healthcare and Family Services and medical payments and child
5 care payments may be made by the Department of Human Services
6 (as successor to the Department of Public Aid) from
7 appropriations for those purposes for any fiscal year, without
8 regard to the fact that the medical or child care services
9 being compensated for by such payment may have been rendered in
10 a prior fiscal year; and payments may be made at the direction
11 of the Department of Central Management Services from the
12 Health Insurance Reserve Fund and the Local Government Health
13 Insurance Reserve Fund without regard to any fiscal year
14 limitations.

15 Medical payments may be made by the Department of Human
16 Services from its appropriations relating to substance abuse
17 treatment services for any fiscal year, without regard to the
18 fact that the medical services being compensated for by such
19 payment may have been rendered in a prior fiscal year, provided
20 the payments are made on a fee-for-service basis consistent
21 with requirements established for Medicaid reimbursement by
22 the Department of Healthcare and Family Services.

23 Additionally, payments may be made by the Department of
24 Human Services from its appropriations, or any other State
25 agency from its appropriations with the approval of the
26 Department of Human Services, from the Immigration Reform and

1 Control Fund for purposes authorized pursuant to the
2 Immigration Reform and Control Act of 1986, without regard to
3 any fiscal year limitations.

4 Further, with respect to costs incurred in fiscal years
5 2002 and 2003 only, payments may be made by the State Treasurer
6 from its appropriations from the Capital Litigation Trust Fund
7 without regard to any fiscal year limitations.

8 Lease payments may be made by the Department of Central
9 Management Services under the sale and leaseback provisions of
10 Section 7.4 of the State Property Control Act with respect to
11 the James R. Thompson Center and the Elgin Mental Health Center
12 and surrounding land from appropriations for that purpose
13 without regard to any fiscal year limitations.

14 Lease payments may be made under the sale and leaseback
15 provisions of Section 7.5 of the State Property Control Act
16 with respect to the Illinois State Toll Highway Authority
17 headquarters building and surrounding land without regard to
18 any fiscal year limitations.

19 (c) Further, payments may be made by the Department of
20 Public Health and the Department of Human Services (acting as
21 successor to the Department of Public Health under the
22 Department of Human Services Act) from their respective
23 appropriations for grants for medical care to or on behalf of
24 persons suffering from chronic renal disease, persons
25 suffering from hemophilia, rape victims, and premature and
26 high-mortality risk infants and their mothers and for grants

1 for supplemental food supplies provided under the United States
2 Department of Agriculture Women, Infants and Children
3 Nutrition Program, for any fiscal year without regard to the
4 fact that the services being compensated for by such payment
5 may have been rendered in a prior fiscal year.

6 (d) The Department of Public Health and the Department of
7 Human Services (acting as successor to the Department of Public
8 Health under the Department of Human Services Act) shall each
9 annually submit to the State Comptroller, Senate President,
10 Senate Minority Leader, Speaker of the House, House Minority
11 Leader, and the respective Chairmen and Minority Spokesmen of
12 the Appropriations Committees of the Senate and the House, on
13 or before December 31, a report of fiscal year funds used to
14 pay for services provided in any prior fiscal year. This report
15 shall document by program or service category those
16 expenditures from the most recently completed fiscal year used
17 to pay for services provided in prior fiscal years.

18 (e) The Department of Healthcare and Family Services, the
19 Department of Human Services (acting as successor to the
20 Department of Public Aid), and the Department of Human Services
21 making fee-for-service payments relating to substance abuse
22 treatment services provided during a previous fiscal year shall
23 each annually submit to the State Comptroller, Senate
24 President, Senate Minority Leader, Speaker of the House, House
25 Minority Leader, the respective Chairmen and Minority
26 Spokesmen of the Appropriations Committees of the Senate and

1 the House, on or before November 30, a report that shall
2 document by program or service category those expenditures from
3 the most recently completed fiscal year used to pay for (i)
4 services provided in prior fiscal years and (ii) services for
5 which claims were received in prior fiscal years.

6 (f) The Department of Human Services (as successor to the
7 Department of Public Aid) shall annually submit to the State
8 Comptroller, Senate President, Senate Minority Leader, Speaker
9 of the House, House Minority Leader, and the respective
10 Chairmen and Minority Spokesmen of the Appropriations
11 Committees of the Senate and the House, on or before December
12 31, a report of fiscal year funds used to pay for services
13 (other than medical care) provided in any prior fiscal year.
14 This report shall document by program or service category those
15 expenditures from the most recently completed fiscal year used
16 to pay for services provided in prior fiscal years.

17 (g) In addition, each annual report required to be
18 submitted by the Department of Healthcare and Family Services
19 under subsection (e) shall include the following information
20 with respect to the State's Medicaid program:

21 (1) Explanations of the exact causes of the variance
22 between the previous year's estimated and actual
23 liabilities.

24 (2) Factors affecting the Department of Healthcare and
25 Family Services' liabilities, including but not limited to
26 numbers of aid recipients, levels of medical service

1 utilization by aid recipients, and inflation in the cost of
2 medical services.

3 (3) The results of the Department's efforts to combat
4 fraud and abuse.

5 (h) As provided in Section 4 of the General Assembly
6 Compensation Act, any utility bill for service provided to a
7 General Assembly member's district office for a period
8 including portions of 2 consecutive fiscal years may be paid
9 from funds appropriated for such expenditure in either fiscal
10 year.

11 (i) An agency which administers a fund classified by the
12 Comptroller as an internal service fund may issue rules for:

13 (1) billing user agencies in advance for payments or
14 authorized inter-fund transfers based on estimated charges
15 for goods or services;

16 (2) issuing credits, refunding through inter-fund
17 transfers, or reducing future inter-fund transfers during
18 the subsequent fiscal year for all user agency payments or
19 authorized inter-fund transfers received during the prior
20 fiscal year which were in excess of the final amounts owed
21 by the user agency for that period; and

22 (3) issuing catch-up billings to user agencies during
23 the subsequent fiscal year for amounts remaining due when
24 payments or authorized inter-fund transfers received from
25 the user agency during the prior fiscal year were less than
26 the total amount owed for that period.

1 User agencies are authorized to reimburse internal service
2 funds for catch-up billings by vouchers drawn against their
3 respective appropriations for the fiscal year in which the
4 catch-up billing was issued or by increasing an authorized
5 inter-fund transfer during the current fiscal year. For the
6 purposes of this Act, "inter-fund transfers" means transfers
7 without the use of the voucher-warrant process, as authorized
8 by Section 9.01 of the State Comptroller Act.

9 (Source: P.A. 95-331, eff. 8-21-07.)

10 Section 5-20. The State Pension Funds Continuing
11 Appropriation Act is amended by adding Section 1.8 as follows:

12 (40 ILCS 15/1.8 new)

13 Sec. 1.8. Suspension of appropriations for FY 2011.
14 Notwithstanding any other provision of this Act, no
15 appropriation otherwise required from the General Revenue Fund
16 or the Common School Fund under this Act is required to be made
17 prior to January 31, 2011.

18 ARTICLE 97. SEVERABILITY

19 Section 97-1. Severability. The provisions of this Act are
20 severable under Section 1.31 of the Statute on Statutes.

21 ARTICLE 99. EFFECTIVE DATE

1 Section 99-1. Effective date. This Act takes effect upon
2 becoming law.".